

The Washington Board

Informing Professional Engineers and Professional Land Surveyors of the events and developments that affect their professions



Journal

Number 33 • Spring 2004

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YOUR BOARD MEMBERS

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If you, or someone you know, would like to receive a copy of this publication, please contact the Board of Registration for Professional Engineers and Land Surveyors.

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Message from the Chair

“The Message from the Chair” is a reflection of the personal opinions and experiences of the Board Chair. Comments in the article may be shared by various members of the Board, but they are not to be interpreted as a policy, position, or consensus of the Board unless specifically so indicated.

Reflections Of A Board Member

By: Lyle J. Hansen, PE.

One of the most difficult tasks I have had during my year as the board Chair is that of having to write an article for each of three editions of the Journal.

The only enjoyable aspect about it is that it is “my message” and therefore I can write about anything I want. (Well, almost anyway.) As the end of my five-year term on the Board approaches I would like to share what my impressions have been.

How can I best describe these past five years I asked myself? I then decided it might be simple if I were to write it in terms of moccasins. In fact I will address both your moccasins and mine. What do moccasins have to do with the board? You know the old adage, “until you have walked in my moccasins etc....”

Two of our members will retire their moccasins in July. The governor will appoint a replacement for my (engineering) moccasins and for one of our esteemed Land Surveyors (Dan Clark’s) moccasins.

First, let me describe the moccasins I have brought to the board. Mine were “developed” as a result of having been born and raised in Kitsap County and having been educated through the public school system in our state. My professional life has included employment in both the public and private sectors. Based upon the above background I believe my moccasins to be fairly representative of present-day board members.

With all of those years of experience providing me with a mature pair of moccasins, when I became a board member what do you think happened? You probably guessed it – I went back to square one. It took the first two years before I could understand whom all of the participants, agencies and committees were and what their roles were in the licensing process. I have come to the conclusion, as I am sure many of you have already, that life is simply one endless learning process. Until I had progressed through all the chairs of the various board committees I really didn’t have a good understanding of how the board worked. In order to function most effectively I had to devote as much time as I could working with the numerous technical and professional societies; and by participating in state, national and international committees and organizations relating to engineering and land surveying.

Throughout all of the above, the one thing I could not lose sight of was the

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News To You

Retirement From The Board

By: Daniel Clark, P.L.S.

Someone has said that change is the only constant. That is certainly a truism. We get involved with something and before we know it, it's over. That is the way I feel with my time on the Board of Registration nearing an end. It has been a very good time in my life and I will miss being with the Board and the Board staff. I also feel the Board has accomplished much for the people of the State of Washington and I am honored to have been a member of the Board for the last ten years. Following are some of the items that have been accomplished by the Board during the last ten years or changes made in how the Board operates.

DISCIPLINARY PROCESS –

We have made many refinements to what was already in place before my time on the Board. The Board and staff have worked hard to make the process fair and effective. A major change in how we are able to deal with unlicensed practice was brought about with the passage of the Uniform Regulation of Business and Professions Act (URBP – RCW 18.235) in 2002. We are already experiencing success in being more effective in curbing serious instances of unlicensed practice.

CHANGES IN THE WASHINGTON ADMINISTRATIVE CODES (WAC) –

Commonly known as rule changes, these are promulgated by the Board to implement changes occurring in statute as well as evolving issues identified through the Board's interaction with licensees. As a state agency the Board was also directed by the Governor in 1997, to conduct ongoing review and evaluations of existing rules to insure they were understandable, accomplished the needed instruction and are supported by legislative authority. During the last 10 years all of the Board's rules have undergone this review at least once. Of particular note is the Board's extensive effort to update and revise the Rules of Professional Conduct (WAC 196-27A) as well as the important guidance for "Direct Supervision", "Document Stamping"

and "Signatures". The current workshops and Journal articles show the work of the Board in the review of rules is constant.

LICENSING OF DESIGNERS OF ON-SITE WASTEWATER TREATMENT SYSTEMS –

In the mid 1990's a lawsuit and subsequent court decision ruled that the design of on-site wastewater systems was the practice of engineering. Influenced in part by that decision and concerns from consumers, the legislature created this licensing program in 2000 and assigned the administrative duties to the Board. While we were somewhat concerned about the impact of this new program on staff and Board time, it was assimilated without a significant impact on our resources and is proving to be a good fit to the Board's long history of regulating engineering practice.

In looking back I have also had experiences as a Board Member that have broadened my education and have given me the opportunity to travel. I have been chosen on several occasions to represent the State of Washington, along with other Board Members, at NCEES Western Zone and Annual Meetings. I have served on many NCEES committees and task forces as well as serving as liaison to LSAW and other organizations during my tenure.

Another duty that I enjoyed and allowed me some time to attend to my work on investigation files was while serving as the lead proctor at various Board exam administrations. While proctoring exams is very important it did allow some extra time between my proctoring duties and giving instructions to keep up with my "board" homework. But as I have said at the start of this article, change is constant, and as with our examinations we have changed to have administrative duties performed by a branch of NCEES.

I thank my fellow Board Members and the Board Staff for making this a pleasurable ten years. I look forward to continuing friendship with Board Members and my other professional colleagues in the years to come.

Washington Board Hosts Multi-State Meeting About Structural Examinations

As many individuals who are licensed in structural engineering know mobility of licensure from state to state is frequently difficult and complicated. The reason is many states have differing requirements to obtain licensure in structural engineering. Some states only require passage of a Civil exam and experience in structural design while others require additional examinations above and beyond the basic PE credential. Over time states have studied the possibility of recognizing the equivalency of the licensure requirements of other states so that applicants did not need to take redundant.

To date, little progress has been achieved in that effort.

As a result of informal discussions last summer at the NCEES Annual Meeting in Baltimore, the representatives of Illinois, California and Washington agreed to renew the discussions in hopes of the three states coming to a point of agreement on equivalency between each state's exams and processes toward structural engineering licensing. That resulted in an informal discussion in Seattle on February 11th. While the meeting was originally planned to be discussions between those three states, broader interest also brought representatives from Oregon and British Columbia.

The meeting itself was productive because all individuals came to the table with "open minds" about how to overcome some of the barriers. At the meeting the California Board provided their planned outline for the new California SE III examination to be debuted in October 2004. Illinois liked the complexity and balance reflected in both the Washington and California examinations. The Washington exam is a problem solving (calculations) format while the California exam will have a portion in multiple-choice format to enhance the equating process. The representatives from Oregon and British Columbia also liked the Washington format and were considering making proposals to the Washington Board to obtain access to the exam for use in their jurisdictions.

Also in attendance was a member of the Washington Board who is serving as a member to the NCEES Committee on Examinations for Professional Engineers. The Board of Directors of NCEES charged that commit-

tee, to study whether there is sufficient interest and support for a national structural examination along the lines of what is already in use in Washington.

The meeting produced some solid ideas on next steps and will likely satisfy the original goal of interstate equivalency between California and Washington so that individuals could be licensed in either state without additional examinations. Presently, applicants for licensure in structural engineering in Washington must hold a license as a PE and document at least two years of structural engineering experience in addition to the eight years required for the PE. If approved for examination, the applicant is required to pass both the NCEES SE II and the Washington SE III. The representatives of the California Board preliminarily viewed this framework as equivalent to their requirements.

It is uncertain when the California and Washington Boards will formally agree on the question of equivalency.

Board Initiates ListServ

By the time you read this article the Board will have a new service available to all persons who are interested in receiving e-mail messages from the Board on special announcements, meeting agendas, meeting minutes, Board Journals and other information of interest to our stakeholders.

This new service, provided through the Washington State Department of Information Services (DIS) will enable individuals to enter the system per the attached instructions and subscribe to the service by providing the requested information. Depending upon whether you subscribe to the Engineer/Land Surveyor list and/or the On-site Wastewater list, you will receive an e-mail message (directed to the e-mail you register with DIS) providing information and a link or instructions of where the detailed information can be found.

For instance, when the Board Journal is published, those on the list will receive an announcement that they can go to the Board's website and download the new Journal. The document will not be an attachment to the e-mail since that would overload and slow down the quality of service. If the message you receive is about information in which you have no interest you can simply delete the message.

This listserv is offered only as an alternative delivery method to help the Board reduce costs of printing and postage. It is an optional service. Standard mail delivery will continue for those individuals who prefer to receive the announcements or publications in that way.

If you are interested in being a subscriber for this free service you may log on to either of the sites shown here or go to the Board's websites where a link can be found to direct you to the subscription page.

Board's websites:

Engineers and Land Surveyors:

<http://www.dol.wa.gov/engineers/engfront.htm>.

On-Site:

<http://www.dol.wa.gov/engineers/onsitefront.htm>

Engineers and Land Surveyors Listserv:

<http://listserv.wa.gov/archives/engineers-licensing-board.html>

On-Site Listserv:

<http://listserv.wa.gov/archives/on-site-designers-licensingboard.html>

Do You Need A Wallet Card?

The Department of Licensing is in the process of changing the vendor who handles our licensing renewals. Previously, your new license included a "wallet" size card showing the renewed license dates. The card has been a part of the Board's renewals for some time but we are now wondering if this feature is worth the expense. With the new vendor contract the inclusion of a "wallet" card approximately doubles the costs to the Board.

It would be helpful in our decision-making on this question if you could let us know whether you want the cards to be continued. Please send e-mail to engineers@dol.wa.gov and let us know.

Building Codes for the October 2004 WA Structural III Exam

The structural engineering examination requires applicants to do problem solving using values and criteria from the state building code in the solution. At present, the 1997 Uniform Building Code (UBC) is in use in Washington State and has been for the last 6 years. Effective in July 2004, the state of Washington will start using the 2003 International Building Code (IBC). Many areas throughout the United States have already adopted the 2000 IBC and some are in the process of moving from the 2000 IBC to the 2003 IBC. With this background in mind, the National Council of Examiners for Engineering and Surveying (NCEES) has decided to base building questions in their April and October 2004 SE II exams on the 2000 IBC.

To assist structural applicants in this time of code transition, The Board of Registration for Professional Engineers and Land Surveyors (Board) has decided that the building questions in the October 2004 Washington SE III Exam can be solved using *either* the 1997 UBC *or* one of the two IBC's. These options are only available for this one examination administration and by October 2005 the SE III will require solutions based on the 2003 IBC.

The question at hand is this: "In addition to the 1997 UBC, upon which edition of the IBC, 2000 or 2003, should the building questions in the October 2004 WA Structural III Exam be based?" Some applicants might favor the 2000 IBC if they will be preparing to take the NCEES Structural II Exam at the same time. Other applicants might favor the 2003 IBC, since they will be using it in their practice prior to the exam.

We have asked this question in different venues, and to date the consensus clearly favors the 2003 IBC. However, we want to allow one last opportunity for you to give us your input. If you expect to take the October 2004 WA Structural III Exam, and plan to answer a building question using the IBC, which edition of the IBC would you prefer to use, the 2000 IBC or the 2003 IBC? You can send your response to engineers@dol.wa.gov **before May 15, 2004.**

Board Gets Input From Licensees

Prompted by articles in this Journal last spring and fall, the Board has received many written comments expressing opinions on the various topics of interest. In an effort to encourage further dialogue the Board held a series of three workshops around the state. Licensees (on at least one occasion dealing with bad weather conditions) came to locations in Tacoma, Everett and Spokane to listen, discuss and reflect on where elements of engineering and land surveying practice may need to be addressed by the Board through rule making or written policy.

The following is an overview of the topics covered and comments made at each location:

TACOMA, JANUARY 7TH

Attendance: 13 PE

Topic: *“Stamping responsibilities of public sector PEs”*

The majority of the participants at this workshop were PEs who were employed or had been employed in a public sector assignment. While some expressed the thought that public sector PEs need to follow the same rules as those in consulting practice, the majority presented well thought out opinions on why the role of the public sector PE should be treated differently and perhaps under different rules. Opinions expressed were that:

- stamping was unnecessary to protect the public,
- such actions bring higher liability concerns to the public entity, and
- stamping by the reviewing PE clouds the distinctions between the consultant and reviewer in knowing who is the responsible engineer.

There was also curiosity on the need to do anything as the system has seemingly worked OK for quite a time. (“If it isn’t broke, don’t need to fix it”).

EVERETT, JANUARY 21ST

Attendance: 14 total; 3 LS and 11PE.

Topic: *“Stamping responsibilities of public sector PEs”*

Again at this workshop there was a strong represen-

tation by those who wished to comment on the role of public sector PEs. A sampling of the ten individual’s comments are:

- the provisions for stamping should apply to all engineers.
- stamping will add confusion, cost and delay to an already slow process.
- stamping should recognize different types of review.
- action by the Board must consider the Public Duty Doctrine and the protection that is provided by the doctrine.
- revisions by the Board should address the practice of unlicensed individuals questioning the judgment of the PE and withholding approvals to force changes by the PE.

Topic: *“Limited surveying practice by PEs”*

Dealing with a recently introduced topic, the participants in Everett also commented on the past policy of the board to allow incidental surveying as a part of PE design activity. The following views were expressed.

- Allow activity as long as it is only topo.
- PE must be competent in any activity he performs.
- Requiring an LS every time an engineer needs some topo information for a report is burdensome and unnecessary to protect the public.
- It may be necessary to produce in board rule a definition of exactly what is “incidental surveying” and its scope.

SPOKANE, JANUARY 28TH

Attendance: 16 total; 8 LS, 6 PE, 2 techs.

Topic: *“Limited surveying practice by PEs”*

With a majority of professional land surveyors, the topic that occupied most of the time was the limited surveying practice by PEs. However, the comments offered did not differ significantly from the meeting

in Everett. They are listed below.

- What is incidental?
- This practice should not be permitted if it is to involve any type of boundary assessment or determination.
- Those that create maps from aerial photography are also practicing land surveying and should be licensed.
- This will add another layer of regulation.
- Engineers are capable of collecting their own data.
- The Board should appoint a task force to look at stamping practices within state agencies.

Topic: "Direct Supervision and stamping of plans"

The interpretation and understanding of what is or is not direct supervision has always been asked of the Board. The group attending the Spokane meeting offered the following observations:

- The Board needs to provide advice to guide licensees who take over a project when the original licensee is no longer involved. (succession of plan review)
- The Board must maintain a direction that ensures protection of the public but not interference in professional practice.
- Many times a PE is asked to review and stamp plans late in the process. There needs to be a mechanism in place that allows for reviews and stamping of plans to address that situation.
- I like the rules as they are.
- How can an LS record survey information created prior to the survey recording act for the sole purpose of placing information into the public record?

In addition to the preceding comments here is a list of other observations from the workshops.

- **Tacoma**

The Board should consider the establishment of a discipline exam and license in Traffic Engineering.

- **Everett**

The Board is complimented on the quality of the Journal publication and their willingness to get out to licensees for their input.

- **Spokane**

There was inquiry on how the appointment process works for board appointments.

The Board members who attended the workshops were impressed with the knowledge individuals brought to the discussions. They understand the importance of these discussions and have scheduled four more workshops. Workshops are scheduled for:

Pasco, May 10th

Wenatchee, May 12th

Bellingham, May 19th

Vancouver, May 26th

Each workshop is scheduled from 7 to 9 pm. To help us provide for sufficient seating space, please let us know which workshop you wish to attend as far in advance as you can.

As we compile the notes, comments and written responses from these workshops a more extensive summary will be prepared and made available for download from the board's website. We will make that announcement through the newly establish Listserv after the Vancouver workshop.

As the Courts See It

EMPLOYER'S RIGHTS PREVAIL

Most of the readers of this Journal probably won't agree with this decision, but it's folly to deny reality. In February, 2002, the Court of Appeals Fourth Circuit, State of Louisiana, upheld the decision of a trial court for Summary Judgment dismissing the allegation of unjust firing of an engineer, which claimed he was overruled by unlicensed supervisors in matters which violated codes and had the potential of endangering the public. The trial judge ruled that the employer's right to fire at will without cause prevailed.

Your attention is called to this situation because the controversy is comprehensively documented on the web for your review. This Journal does not have the space to devote to all of the relevant details, but with just a little effort you can have access to all of those details on the web, including an Amicus Curiae Brief filed by NSPE on behalf of the engineer, as well as documentation of the opinion of the Court of Appeals, a summary by the engineer and an article by an IEEE representative.

This situation is instructive to any professional with the potential of being faced with the dilemma of satisfying the code of conduct in Chapter 18.43 RCW and WAC 196-27A and challenging the conduct of their employer. By understanding the reasoning of the court you may be provided with important guidance on how to successfully meet the challenges of such a dilemma. This is all available by going to this web address

<http://www1.cs.columbia.edu/~unger/monts/ungArticle.html>.

WHAT WASHINGTON LAW SAYS:

While the Board does not have authority on enforcement of employment laws in Washington, they do wish to point out some relevant provisions about the responsibilities of the firm:

RCW 18.43.120 Violations and penalties

"Any person who shall practice engineering... without being registered [as a PE]...shall be guilty of a gross misdemeanor."

RCW 18.43.130 Excepted services

(8)(b)&(9)(b) "The designated engineer [land surveyor]...shall make all engineering [land survey-

ing] decisions. Resolution filed shall not relieve the corporation [LLC] of any responsibilities."

RCW 18.43.130 Excepted services

(8)(f)&(9)(f) "Any corp.[LLC]...together with its directors/managers...are responsible to the same degree as individual registered engineers[land surveyors]"

RCW 18.235.150 Investigation of Complaint

(1) "[Board] may investigate complaints ... by unlicensed persons ... or business"

(2) "[Board] may issue ... cease and desist orders"

(3) "[Board] may impose a civil fine ... not exceeding [\$1,000/day] ... for unlicensed practice"

Board Rule Revisions

Over the course of the last several years the Board has been conducting an ongoing evaluation of its' administrative rules, Washington Administrative Code (WAC) Title 196. This evaluation, initiated by Executive Order 97-02, has resulted in the Board making many changes, clarifying and reorganizing the rules that practicing licensees, applicants, and businesses must adhere to. In addition, new rules were adopted to assist the Board in implementing the Uniform Regulation of Business and Professions (URBP), Chapter 18.235 RCW.

The rules listed below were adopted by the Board during their January meeting and became effective on February 22, 2004. While significant progress was made during this latest revision of the rules, several rules slated for revision require additional study. The Board would like to encourage your participation in the rule development process and invites your comment. There are several ways to stay informed of our progress:

- The latest information is available on the Board website at: <http://www.dol.wa.gov/engineers/engfront.htm>
- You may provide your email address to the Board and be placed on a Listserve, which will inform you via email when the latest rule information is available for viewing at the website or;

- You may be placed on the mailing list of interested persons to receive hard copy notices and drafts of rule work under way.

While the complete text of rules is too voluminous to re-print here, it is available for viewing at <http://www.dol.wa.gov/engineers/engfront.htm>, or a copy can be mailed upon request. The following is a list of those chapters being revised:

Chapter 196-09 WAC –
Board Practices and Procedures.

Chapter 196-12 WAC –
Registered Professional Engineers.

Chapter 196-16 WAC –
Registered Professional Land Surveyors.

Chapter 196-21 WAC –
Land Surveyors-In-Training.

Chapter 196-23 WAC –
Stamping and Seals.

Chapter 196-24 WAC –
General

Chapter 196-25 WAC –
Business Practices.

Long-Time Staff Member Takes New Position

March 15th marked the end of a very long term of service to the Board. Rick Notestine, who came to the Board staff in 1985 as the Assistant Registrar, has taken the position as Administrator of the Design Professions Unit in the Department of Licensing. This unit comprises the programs for Architects, Landscape Architects and Geologists.

During his tenure with the Board, Rick also served as investigator, exam administrator and acting registrar. Over the last several years Rick was the manager of the Exam and Licensing unit where he held responsibility over coordinating exam administrations as well as development of our locally prepared exams on structural engineering, forest engineering and land surveying. This knowledge of exam process and development will serve the needs of his new programs very well.

The Board and staff wish to congratulate Rick on his new assignment and wish him success.

Surveyors Continuing Education Stalls Again

For the second year, the Land Surveyor's Association of Washington (LSAW) proposed legislation to add continuing education requirements for professional land surveyor's license renewals, by amending chapter 18.43 RCW, failed to pass. While there seemed to be support through the early stages of legislative review, the bills were not acted upon before the sessions closed.

The effort put forth by LSAW and its leadership has been significant. The Board offers its compliments to LSAW and their efforts to "walk the walk."

SURVEY ACCURACY STATEMENTS

QUESTION:

On my Record of Survey maps do I need to report the accuracy or precision of my field surveys? I believe that unless one is using relative accuracy standards by which to judge their traverse work, they don't need a statement. WAC 332-130-080 (4) requires the relative accuracy statement and this was determined because of the uniqueness of using a least squares adjustment and how many different ways one may analyze their work and still be in compliance. The traditional linear closure standard, although still confused by different techniques, is more easily determined, but 332-130-090 does not require a statement on the survey.

I would like to know how the board judges this requirement. I do not use a statement when using linear closure standards, but do make a statement when using relative accuracy.

ANSWER:

No matter what method is used to determine the accuracy or precision of your fieldwork your record of survey must contain a statement that your work meets or exceeds the standards contained in WAC 332-130-090.

WAC 196-24-110 (2) states that field survey work performed to accomplish the monumentation, posting, and marking of a boundary line between two existing corner monuments shall meet the minimum standards imposed by chapter 332-130 WAC. Then WAC 332-130-070 states that the accuracy or precision of field work may be determined and reported by either relative accuracy procedures or field traverse standards, provided that the final result shall meet or exceed the standards contained in WAC 332-130-090. The Board has consistently stated that WAC 332-130-070 allows a surveyor to determine the method of determining

accuracy or precision of the fieldwork but that he/she must report on the survey map that the work meets or exceeds the standards.

ON-SITE DESIGNER PRACTICE

QUESTION:

I was asked recently to look at some on-site design plans that were utilizing a fairly new technology in their approach. It was clear to me very early that the designer was not at all familiar with the technology he was using and the design required numerous corrections before it could actually be installed. I thought that as professional license holders we have an obligation to be familiar with the products we use and how they should be appropriately applied. Also, don't we need to educate ourselves somehow on these technologies before trying them out?

ANSWER:

You are correct on both issues. The fundamental canons and guidelines for professional practice, WAC 196-33-200 (2) states; *Licensees shall be competent in the technology, and knowledgeable of the codes, regulations, and guidelines applicable to the services they perform.* Section (3) further states that, *Licensees shall be qualified by education and/or experience in the technical area of on-site wastewater treatment system design applicable to the services performed and the technologies utilized.* Licensees must be aware of their responsibilities here. The on-site industry has evolved with respect to the technologies used to overcome ever-challenging site conditions. Licensees, when contemplating the use of these new technologies, must first gain competence in their application.

QUESTION:

I'm a licensed On-Site Wastewater Treatment System Designer. I recently had a site application review returned to me by my local health official, indicating several "deficiencies". The letter said that in order to properly evaluate the application they needed, among other things, the house footprint, the property line marked on the site and the wetland buffer area to be staked. Can they make me do this?

ANSWER:

No, but there is an important distinction to be made here. Local rules and ordinances administered by the health officials may require certain information be provided as a condition to obtaining a permit. Yet, while the letter or instructions from the health official may say, “We require that you... or we need you to provide...” such a comment or instruction IS NOT authority to perform work that is outside your license scope of practice and responsibility.

As stated in the above question, the review comments ask for building footprint, location of a property line and a wetland delineation. Of those three items, only the footprint of the building falls within the scope of practice of a licensed on-site wastewater designer provided the building is the structure that the system is servicing.

Local health officials have the responsibility to make sure that the issuance of a permit is supported by the appropriate supporting site information. When those requirements identify such things as location of property lines or wetland delineations, others must provide the delivery of those services, such as licensed surveyors and/or wetland biologists.

his designs until it was caught by the local building official and reported to the Board.

When contacted during the investigation the PE admitted that he was aware of the actions of his friend and had asked that he not continue. However, he took no further steps to alert either the local regulators or the Board. It was that knowledge of infraction and failure to notify authorities that led to disciplinary action.

Routine interaction amongst your colleagues will rarely put you at risk as long as you maintain the rules and regulations on “direct supervision” and “stamping of plans”, and inform the Board of infractions of which you have knowledge.

**ADING AND ABETTING UNLICENSED
ENGINEERING PRACTICE****QUESTION:**

I recently attended a meeting where a representative of the Board gave an example of a past investigation where a PE had their license suspended for aiding and abetting unlicensed practice. Engineers are always working with employees, coworkers and associates who are not licensed and may have those individuals performing certain work that could be considered engineering. How do I know if I am at risk of aiding and abetting unlicensed practice?

ANSWER:

The case you refer to involved a PE that had “a friend” who performed residential house designs as a building designer. Apparently, the friend was not satisfied with the amount of work he was obtaining and wanted to get more clients and charge more money for his services. The method he chose was to have a rubber stamp made with his name and a fraudulent number. He then went about stamping

On-Site Designer Licensing

On-Site Practice Guidelines Released

This past summer the Board's On-Site Advisory Committee completed work on the publication *Guidelines for the Professional Practice of On-site Wastewater Treatment System Design*. This work represents a significant step in the implementation of the state law regulating the practice of on-site design. Engineers, Licensed Designers and Local Health Regulators should all benefit significantly from its guidance.

The Board would like to thank the following individuals for their contributions:

Dean Bannister
Able Development Company

Bob Wright, PE
Tryck, Nyman, Hayes, Inc.

Paul Gruver
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Jerry Stonebridge
Stonebridge Construction

Larry Fay
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Richard Benson, PE
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David Jensen, PE
D.R. Strong Consulting Engineers

Kenneth Mitchell, PE
*Irrigation & Hydraulics Unlimited,
Consulting Engineers*

Michael Vinatieri
Clark County Health Department

Copies are available for download at:
www.dol.wa.gov/engineers/onsitefront.htm or upon
request from the Board offices.

On-Site Examination Results

The Board administered the latest licensing examination for on-site wastewater treatment system designers and inspectors in October 2003. A total of 29 applicants were approved to take the exam. The following is a breakdown of applicants and performance:

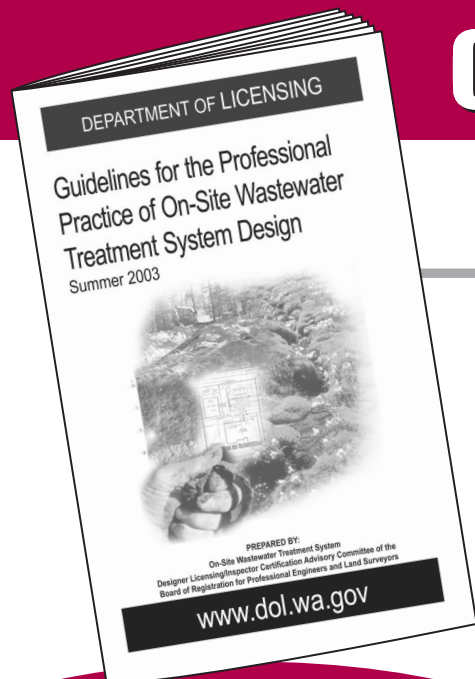
THE RESULTS

	Designers	Inspectors
Pass	12	6
Fail	7	3
No-Show	0	1
Total	19	10

"Times They Are A Changin" In On-Site Design

Over recent months the On-site Program staff have received a number of calls and emails with questions about various applications of the designer licensing law. Considering the questions we receive and all the changes that have taken place since this law was enacted we wish now to clarify some practice issues on plan changes; when a licensee needs to be consulted about changes; and when changes without a licensee's input might be considered unlicensed practice. While many local health officials are familiar with those design services that require the work to be done by a licensed professional, there are a few individuals that might not be as accustomed to the environment which they now find themselves.

WAC 246-272 charges local health officials with the responsibility to oversee and regulate the design and installation of on-site wastewater treatment systems. RCW 18.210 charges the Board of Registration for Professional Engineers and Land Surveyors with regulating those persons practicing or offering design services. The law defines "design" as: "...the development of plans, details, specifications, instructions, or inspections by application of specialized knowledge in analysis of soils, on-site wastewater treatment systems,



On-site Guidelines... at our website NOW!

"...All involved (in this project) share a vision of competent, knowledgeable professionals working responsibly in the interests of their clients to create designs, oversee their installation, and educate their users in a way that is protective of the public's health, preserves and enhances the environment and conforms to applicable laws and regulations."

Lawrence D. Fay Jr.

Environmental Health Director, Jefferson County Health Dept,
Chairman of the On-Site Advisory Committee

"...(This document) represents the collective wisdom of highly experienced and knowledgeable participants in the profession...and should be a valuable reference for all engaged in the design, installation, regulation, maintenance, and utilization of on-site wastewater treatment systems...anyone who was a part of this effort should be proud of the outcome."

Hal Williamson, P.E.

Member of the Board and Liaison to On-Site Advisory Committee

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disposal methods, and technologies to create an integrated system of collection, transport, distribution, treatment, and disposal of on-site wastewater." While this act has a requirement for local health officials/employees, that review or inspect on-site systems, to take and pass the licensing exam to obtain a Certificate of Competency, that certification is not considered a license to practice.

Prior to the enactment of Chapter 18.210 RCW in 1999, the regulation of persons designing systems fell to the local health officials. While many health departments / jurisdictions had programs for licensing of designers, many, if not all final design decisions rested with the health official. Installers frequently went directly to the health official with requests to change the design in some fashion. The health official would evaluate the proposed changes and approve or disapprove appropriately.

Now that we have a state designer licensing law there is a need to recognize how plan changes can be made appropriately. With few exceptions, only individuals holding a license to practice as Onsite Wastewater System Designers can make design changes.

However, depending upon the instructions in locally adopted ordinance and/or code, local health officials

may perform designs as a function of their official capacity for that jurisdiction. Conversely, installation contractors do not have authority to make changes to a design without such changes being approved by the designer or engineer for the project.

The key to successful understanding of these requirements is communication. Changes to a design can originate through the installation process when conditions are discovered that were not included or considered in the original design. The installer must communicate these circumstances to both the designer and the local health official to ensure overall design performance and integrity. A possible step in this necessary communication is for the installer to inform the designer of the installation schedule ahead of the actual date of installation. Ideally, that would enable the designer to be at the site during installation and to act upon any circumstances affecting the original design. Such interaction would assist the health official in approving changes without circumventing the rationale and judgment of the designer. Does this add complexity? Perhaps, however, it also maintains clear lines of responsibility, one of the driving factors behind why this licensing law was created.

While it may seem useful to the customer for their installer to propose substitute materials, equipment or locations that may appear to save overall costs, the designer is the only one that should make the recommendations to the health officials. The health official can then evaluate the appropriateness of the proposed changes with full confidence that an individual fully skilled in on-site designs has seen fit to offer the changes. It is also important to point out that changes to a designer's plan without their consent or knowledge essentially eliminates the designer from any professional responsibility for the subsequent system performance. When that occurs, the customer is not receiving the quality assurance they would otherwise expect from a licensed professional.

As we move into the state regulation of designers we would like to encourage all practitioners and regulators to evaluate how they have approached their practice and what adjustments should be considered. Mr. Dylan's "*Times they are a changin'*" works just about everywhere...don't you think?

Examinations

October 2003 Examination Results

	Total	Pass	% Pass
Fundamentals of Engineering (EIT)	421	300	71
Principles & Practice of Engineering			
Agricultural	1	0	0%
Chemical	9	6	67%
Civil	234	113	48%
Control Systems	8	3	38%
Electrical	37	20	54%
Environmental	8	7	88%
Fire Protection	7	3	43%
Forest	1	1	100%
Manufacturing	1	1	100%
Mechanical	65	38	58%
Metallurgical	6	4	67%
Mining/Mineral	6	4	67%
Nuclear	1	1	100%
Structural II (am)	30	15	50%
Structural II (pm)	33	15	45%
Structural III	78	19	24%
Fundamentals of Land Surveying (LSIT)	33	21	64%
Principles & Practice of Land Surveying (NCEES)	19	10	52%
Principles & Practice of Land Surveying (State)	53	8	15%

NCEES To Raise Administration Fees For Examinations

Effective with the opening of registration for the October 2004 examinations, the Engineering and Land Surveying Examination Services (ELSES) within NCEES will raise the registration fee from \$60 to \$80 per applicant. This registration fee is in addition to fees assessed by the Board on the processing of applications.

Starting in 2002 the Board contracted with ELSES to administer all NCEES examinations for Washington. The registration fee collected by ELSES/NCEES is to cover their expenses for facilities, furnishings, transportation and personnel to administer the examinations.

Investigations & Enforcement

Statistics of Disciplinary Actions Taken by the Board from July 1, 2003 through December 31, 2003

Active investigations as of July 1, 2003	38
Complaints Opened for Investigations	22
Investigations Closed	3
Active Investigations as of December 31, 2003	57

Summary by Month:

	Complaint Received	Inquiry Received	Investigation Opened
July	4	2	4
August	No Meeting		
September	10	1	4
October	No Meeting		
November	11	8	9
December	10	2	5
Totals	35	13	22

Summary by Profession as of December 31, 2003

	Active Investigations	Compliance Orders
Prof. Engineers	19	5
Prof. Land Surveyors	19	3
Unlic. Engineers	7	1
Unlic. Land Surveyors	6	2
On-Site Designers	6	0
Totals	57	11

Summaries Of Investigations And Actions By The Board

In the following case summaries you will read of the disciplinary actions against licensees from July 1, 2003 to December 31, 2003. In each disposition the Board accepted the recommendations of the case manager, unless stated otherwise. For those cases involving a Board order, each licensee will be monitored for compliance.

These summaries are not intended to disclose complete details related to any given investigation or action. While every effort is made to ensure accuracy of the information shown, anyone intending to make a decision based upon this information should contact the Compliance Officer, John Pettainen, at (360) 664-1571 for full details.

FORMAL ACTIONS:

Nils Ronhovde

Case No. 02-11-0006

This investigation was prompted by allegations that since January 1, 2003, Mr. Nils Ronhovde, without a license to practice as a professional land surveyor, either personally or through his firm, Scandia Planners and Surveyors, offered land surveying services. The land surveying services included: acting as the client's contact person; identifying the scope of work; negotiating fees; and, researching record data.

Nils Ronhovde, owner of the sole proprietorship Scandia Planners and Surveyors, formerly held a license to practice as a professional land surveyor, which was revoked pursuant to Findings of Fact, Conclusions of Law and Order No. 89-01-0007. To date, Mr. Ronhovde has not completed the terms of the Order and his license remains revoked.

The case manager found Mr. Ronhovde was engaged in the unlicensed practice of land surveying and authorized the issuance of a Notice of Intent to Issue Cease and Desist Order. In conjunction with

the Notice of Intent, Mr. Ronhovde was offered a settlement opportunity through a Stipulated Findings of Fact, Conclusions of Law and Agreed Order (“Agreed Order”). Terms set forth in this settlement offer included that Mr. Ronhovde shall refrain from any activities that may be construed as the practice of land surveying. The settlement offer was accepted.

David Livingston
Case No. 03-05-0004

The Board opened this investigation after receiving an inquiry that alleged David Livingston, without a license as a professional land surveyor in the state of Washington, either personally or through the firm named Recon Services, which is also not registered as a business in the state of Washington, offered to perform land surveying services. He offered to find missing property corners or state their approximate locations by use of conventional surveying techniques through a Recon Services flyer, and he used a Recon Services logo, which identified Robotic Topographic Mapping, Property Corner Location and Consulting as service capabilities.

The case manager found Mr. Livingston represented himself and/or the firm Recon Services as being able to provide land surveying services to potential clients. Based on that conclusion, the case manager authorized the issuance of a Notice of Intent to Issue Cease and Desist Order and offered a settlement opportunity through a Stipulated Findings of Fact, Conclusions of Law and Agreed Order (“Agreed Order”). Mr. Livingston accepted the Agreed Order, which contained terms that he shall refrain from any activities that may be construed as the practice of land surveying until he obtains a license to practice as a professional land surveyor in this state.

prepared the plans since no calculations accompanied the plan submittal.

The case manager found that the events documented in the investigation file were construed differently by the city official and the respondent. As there was insufficient evidence to support the allegations made, the case manager recommended the case be closed with no further action.

INFORMAL ACTIONS:

Engineering
Case No. 02-07-0003

This Board initiated investigation was opened after receipt of an inquiry from a city official concerning engineering plans for a 9’ basement wall submitted with a building permit application for a proposed residence. This inquiry questioned whether the PE

Message from the Chair

reason for the board's existence. Simply stated, it exists to protect the public.

But how does enforcing our state's law actually play out in the conduct of the board's day-to-day business?

The method the board uses to protect the public is to license engineers, land surveyors and on-site designers who perform work for the public in the State of Washington. To achieve that end the board's business is accomplished primarily through two committees. The first is the Examination & Qualification Committee and the second is the Practice Committee, which oversees compliance of our constituents to perform within the State laws and rules that govern our professions. Board members can write exam problems, develop exam criteria, critique exams and in some cases oversee the testing of licensees. Most of the exams given by our state are now administered by a division of the National Council of Examiners for Engineering and Surveying (NCEES) known as Engineer and Land Surveying Examination Services (ELSEES). Since the NCEES is made up of state boards and their members, we retain adequate control in determining the adequacy over the overall testing process.

As my tenure draws to a close, I see the following four major concerns that remain. One is the continuing splintering of engineering disciplines. The second is the inconsistencies in the ABET accreditation process and its' impact on engineering and technical school graduates. The third is the need for more consistent and ultimately universal criteria to be employed for comity among states and nations. The fourth issue relates to what can be done about the fact that only one in five engineers in our country are licensed?

I would like our constituency to know, that you are represented by a hard working, conscientious board working on your behalf. Also, I would like to recognize our outstanding Executive Director and his 13 member staff of state employees. These individuals toil in relative obscurity while carrying out our board's day-to-day business.

A final thought about the moccasins. As solid as I believe mine have been over the years they are getting old and a little frayed around the edges. Dan Clark and

I hope to see two new, more modern, but still solid pairs of moccasins beneath the chairs in our boardroom after we retire this July. I believe many of you would find that serving on the board would provide one of those rare opportunities for a little "pay back" to our respective professions.

Schedules

Examination Schedule

FALL – 2004 ADMINISTRATION

Examination	Type	Examination Date	Application Deadline
Agricultural, Chemical, Civil, Control Systems, Electrical, Environmental, Fire Protection, Industrial, Mechanical, Metallurgical, Mining/Mineral, Nuclear, Petroleum, and Structural II Engineering	NCEES	Friday October 29, 2004	Tuesday June 29, 2004
Forest Engineering	State	Friday October 29, 2004	Tuesday June 29, 2004
Land Surveying (6-hour)	NCEES	Friday October 29, 2004	Tuesday June 29, 2004
Land Surveying (2-hour)	State	Friday October 29, 2004	Tuesday June 29, 2004
Fundamentals of Engineering & Fundamentals of Land Surveying	NCEES	Saturday October 30, 2004	Wednesday June 30, 2004
Structural III	State	Saturday October 30, 2004	Wednesday June 30, 2004
On-Site Wastewater Designer / Inspector Certification	State	Saturday October 30, 2004	Friday July 30, 2004

SPRING – 2005 ADMINISTRATION

Examination	Type	Examination Date	Application Deadline
Architectural, Chemical, Civil, Electrical, Environmental, Mechanical, Naval Architect/Marine, Structural II Engineering	NCEES	Friday April 15, 2005	Wednesday December 15, 2004
Land Surveying (6-hour)	NCEES	Friday April 15, 2005	Wednesday December 15, 2004
Land Surveying (2-hour)	State	Friday April 15, 2005	Wednesday December 15, 2004
Fundamentals of Engineering & Fundamentals of Land Surveying	NCEES	Saturday April 16, 2005	Thursday December 16, 2004
On-Site Wastewater Designer /Inspector Certification	State	Saturday April 16, 2005	Tuesday January 18, 2005

2004 Calendar of Events

June

23-24 Committee & Board Meeting *La Quinta Inn, Tacoma*

July

28-29 Committee & Board Meeting *La Quinta Inn, Tacoma*

August

11-14 NCEES Annual Meeting *Cleveland, Ohio*

September

15-16 Committee & Board Meeting *La Quinta Inn, Tacoma*

October

29-30 Exam Administration *TBD*

November

3-4 Committee & Board Meeting *La Quinta Inn, Tacoma*

December

15 Practice Committee *Via Teleconference*